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SENATE

{ REPORT
No. 98-129

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

MAY 18 (legislative day, MAY 16), 1983.—Ordered to be printed

Mr. WEICKER, from the Committee on Small Business,
submitted the following

REPORT

[To accompany S. 1323]

The Committee on Small Business, to which was referred several bills amending the Small Business Act and the Small Business Investment Act of 1958, reports favorably an original bill, and recommends that the bill do pass.

I. COMMITTEE CONSIDERATIONS

S. 742, S. 743, S. 744, and S. 745, bills to amend the Small Business Act and the Small Business Investment Act of 1958, were introduced by Senator Nunn on March 9, 1983, and referred to this Committee.

S. 742 proposed amendments to the Small Business Act to increase the program ceiling for certified development companies operating pursuant to section 503 of the Small Business Investment Act of 1958 from \$350 million to \$400 million in fiscal year 1983 and from \$350 million to \$500 million in fiscal year 1984.

S. 743 proposed amendments to the Small Business Act to increase the program ceiling for Small Business Investment Companies (SBIC's) from \$160 million to \$250 million for fiscal year 1983 and 1984.

S. 744 proposed amendments to the Small Business Act to increase the program ceiling for Minority Enterprise Small Business Investment Companies (MESBIC's) from \$35 million to \$45 million for fiscal year 1983 and 1984.

S. 745 proposed amendments to the Small Business Act and the Small Business Investment Act of 1958, to authorize the Small Business Administration to purchase or guarantee debentures under section 501 of the Small Business Investment Act of 1958 and for state and local development companies to participate in the program authorization for guarantees of debentures established in current law for certified development companies.

On April 13, 1983, the Small Business Committee held a hearing on this legislation and received testimony from representatives of the National Association of Businesses Development Corporations (representing State Development Companies operating pursuant to section 501 Small Business Investment Act of 1958) and the National Association of Development Companies (representing the certified development companies operating pursuant to section 503 of the Small Business Investment Act of 1958). Statements for the record were also submitted by the National Association of Small Business Investment Companies and the American Association of Minority Enterprise Small Business Investment Companies.

On May 13, 1983, the Committee met in executive session to consider authorizing SBA programs for fiscal year 1984 and 1985, and for other purposes.

As the basis for the Committee's consideration, a new text, incorporating in full the provisions of the four bills introduced by Senator Nunn, was used. This text also included a proposal recommended by Senators Weicker and Nunn that established revised program levels, salary and expense levels, and authorizations for Small Business Administration programs for fiscal year 1984, and new program levels, salary and expense levels, and agency authorization levels for fiscal year 1985.

Under the initial Committee proposal, for fiscal year 1984, the bill called for:

1. providing \$20 million for SBA's direct loan program to be used only to assist the handicapped, while at the same time eliminating all of the other direct loan programs under section 7(a) of the Small Business Act;
2. raising the program ceiling for SBA's general business loan guaranteed program to \$2.8 billion;
3. raising the program ceiling for SBA's section 503 program to \$500 million, and within the level permitting SBA to guarantee debentures issued by state and local development companies operating under section 501, under the same program authorization.
4. raising the program ceiling for MESBIC's from \$35 million to \$45 million;
5. raising the authorization ceiling for salaries and expenses to \$256.5 million; and
6. raising the authorization for funds to be appropriated to \$1,044 million.

Under the initial Committee proposal, for fiscal year 1985, the bill called for:

- (1) providing \$20 million for SBA's direct loan program to be used only to assist the handicapped;
- (2) establishing program ceilings for SBA guaranteed loan programs as follows:

	<i>Millions</i>
General business loans.....	\$3,000
Handicapped	5
Economic opportunity	60
Energy	15
501 and 503.....	500

(3) establishing a program ceiling of \$45 million for MES-BIC's and establishing a program ceiling of \$250 million for SBIC's;

(4) establishing a program ceiling of \$1.4 billion for the Surety Bond Guarantee Program;

(5) continuing to prohibit any loans under the section 7(b)(3) non-physical disaster assistance program which authorizes loans to small businesses because of economic injury due to direct government interference, Federal law, or state or local action in conformity with Federal law;

(6) authorizing \$250 million for the Pollution Control Bond Guarantee Program;

(7) authorizing such sums as are necessary to fund the Disaster Loan program; and

(8) authorizing \$261 million for salaries and expenses.

In addition, for fiscal year 1985, the initial Committee proposal authorized funds to be appropriated in the following amounts:

	<i>Millions</i>
Business loan and investment fund (BLIF).....	\$576
Surety.....	30
Lease.....	4
Salaries and expenses.....	261
Total.....	871

The initial Committee proposal also made permanent a provision in section 15(c) of the Small Business Act which permits sheltered workshops and rehabilitation facilities employing handicapped persons to bid on Federal contracts under the set-aside program for small businesses, but not to exceed \$100 million per year.

With a quorum present, the Committee unanimously agreed to favorably report the text of the proposal, as amended in Committee, as an original bill. Prior to that vote, the Committee rejected, by a vote of 10-8, an amendment offered by Senator Tsongas to restore funding for the direct loan program to the \$150 million level. Following that vote, the Committee did accept Senator Tsongas' amendment to continue funding for the direct loan program for Vietnam-era and disabled veterans, as established in P.L. 97-72 for fiscal year 1984 and 1985. The Committee also adopted an amendment offered by Senator Levin, establishing minimum program level authority.

The Committee bill as reported is as follows:

SMALL BUSINESS ADMINISTRATION PROGRAM LEVELS

SEC. 1. Section 20 of the Small Business Act is amended—

(1) by striking from paragraph 2 of subsection (n) "section 503" each time it appears and inserting in lieu thereof "sections 501 and 503", and by striking "\$350,000,000" and inserting in lieu thereof "\$400,000,000";

(2) by striking from paragraph 3 of subsection (n) "\$35,000,000" and inserting in lieu thereof "\$45,000,000", and by striking "\$160,000,000" and inserting in lieu thereof "\$250,000,000";

(3) by amending paragraph 1 of subsection (q) to read as follows:

"(1) For the program authorized by section 7(a) of this Act, the Administration is authorized to make \$20,000,000 in direct and immediate participation loans as provided in paragraph (10) and \$25,000,000 in loans to be made only to disabled veterans and veterans of the Vietnam era as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of P.L. 97-72.";

(4) by striking from paragraph 2 of subsection (q) "section 503" each time it appears and inserting in lieu thereof "sections 501 and 503", by striking "\$3,140,000,000" and inserting in lieu thereof "\$3,380,000,000", and by striking "\$350,000,000" and inserting in lieu thereof "\$500,000,000";

(5) by striking from paragraph 3 of subsection (q) "\$35,000,000" and inserting in lieu thereof "\$45,000,000", and by striking "\$160,000,000" and inserting in lieu thereof "\$250,000,000".

(6) by striking from the first sentence of subsection (r) "\$804,000,000" and inserting in lieu thereof "\$1,069,500,000";

(7) by striking from the second sentence of subsection (r) "\$531,000,000" and inserting in lieu thereof "\$779,000,000", by striking "\$239,000,000" and inserting in lieu thereof "256,500,000," and by striking the phrase "of which amount—" and inserting in lieu thereof a period;

(8) by striking from subsection (r) paragraphs (1), (2), (3), (4) and (5), and by striking "(6)" from the last numbered paragraph; and

(9) by adding at the end of section 20 the following:

"(t) The following program levels are authorized for fiscal year 1985:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$20,000,000 in direct and immediate participation loans as provided in paragraph (10) and \$25,000,000 in loans to be made only to disabled veterans, and veterans of the Vietnam era as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of P.L. 97-72.

"(2) For the programs authorized by section 7(a) of this Act and sections 501 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,580,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$60,000,000 in loans as provided in paragraph (11), \$15,000,000 in loans as provided in paragraph (12), and \$500,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in sections 501 and 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to

make \$45,000,00 in direct purchases of debentures and preferred securities and to make \$250,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,400,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees or other obligations or commitments.

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$250,000,000.

"(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(u) There are authorized to be appropriated to the Administration for fiscal year 1985, \$896,000,000. Of such sum, \$601,000,000 shall be available for carrying out the programs referred to in subsection (t), paragraphs (1) through (3); \$30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$261,000,000 shall be available for salaries and expenses of the Administration."

STATE DEVELOPMENT COMPANY PROGRAM

SEC. 2. Section 501 of the Small Business Investment Act of 1958 is amended—

(1) by inserting in the first sentence of subsection (a), after the phrase "make loans to" the phrase, ", or to purchase or guarantee debentures issued by,";

(2) by striking in the second sentence of subsection (a) the phrase "funds advanced" and inserting in lieu thereof the phrase "loans made";

(3) by adding at the end of subsection (a) the following new sentence: "Any purchases or guarantees of debentures made under this section shall be subject to the provisions of subsection (c) of this section, but shall be made without regard to the use and investment by the development company of funds secured by it from other sources."; and

(4) by adding at the end thereof the following:

"(c)(1) The Administration may purchase, or guarantee the timely payment of all principal and interest scheduled on, any debenture issued by any qualified State development company, except that the Administration may not purchase or guarantee any debenture collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954.

"(2) Such purchases or guarantees may be made by the Administration on such terms and conditions as the Administration may by regulation determine to be appropriate. The Administration may impose an additional charge for administrative expenses with re-

spect to each debenture purchased or guaranteed under this section.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this section.

"(4) Debentures purchased or guaranteed under this section shall be treated on an equal basis in repayment and liquidation with those funds borrowed by the qualified State development company, regardless of source, unless the Administration in its exercise of reasonable investment prudence and in considering the financial soundness of such company determines that debentures purchased or guaranteed may be subordinate to other debts and obligations of such company.

"(5) The interest rate on any such debenture shall be the rate of interest determined by the Secretary of the Treasury pursuant to section 303(b) of this Act.

"(6) The proceeds of any such financing shall be used solely to assist an identifiable small business concern and for a sound business purpose as determined by the Administrations."

ELIGIBILITY OF CERTAIN NOT-FOR-PROFIT ORGANIZATIONS FOR ASSISTANCE UNDER THE HANDICAPPED PROCUREMENT PROGRAM

SEC. 3. Section 15(c) of the Small Business Act is amended—

(1) by striking from paragraph (1) "During fiscal years 1981, 1982 and 1983, public" and inserting in lieu thereof "Public", and by striking "such" after the phrase "not to exceed \$100,000,000 for each"; and

(2) by striking from paragraph (2) "1982" and inserting in lieu thereof "of each year", and by striking "Select".

PROGRAM GUARANTEE AUTHORITY

SEC. 4. Section 20(a) of the Small Business Act is amended—

(1) by inserting "(1)" after "Sec. 20(a)"; and

(2) by adding at the end thereof the following:

"(2) Notwithstanding any other provision of law, the Administration shall enter into commitments to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications for such guarantees, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter commitments for such guarantees to qualified applicants."

II. LEGISLATIVE HISTORY

A. OVERVIEW

Over the past several years, this Committee has consistently urged the Small Business Administration to shift its program priorities to place a greater emphasis on its non-lending functions, such as advocacy, economic research, management and technical assist-

ance, innovation and research, and procurement assistance. The diverse needs of the small business community are best served through the effective administration of these programs, as well as through the agency's lending activities.

The Committee has been concerned that the total number of permanent employees of the agency has been reduced by nearly 500 positions over the last five years, with no diminution in the agency's program responsibilities. Indeed, last year, the Congress entrusted SBA with an important additional responsibility by granting the agency oversight authority for the implementation of the Small Business Innovation Research Act. The Committee further notes that since 1970, SBA's loan portfolio has increased four-fold, while the dollar volume of loans has increased about eight-fold. During this same time period, permanent positions in the SBA loan portfolio division have only increased from 790 to 831 positions.

In these tight budgetary times, it is the Committee's view that the agency can no longer be all things for all small businesses. Programs that effectively leverage private sector resources and expertise must be emphasized. Fundamental shifts in the allocation of agency resources must take place.

Accordingly, the recommendations set forth in the Committee's bill reflect the current reality of SBA and the needs of the small business community for the 1980's. With respect to financial assistance, the Committee increases funding levels for the guaranteed programs and eliminates SBA's direct lending activities, with the exception of the handicapped, veterans, and MESBIC programs.

In recent testimony before Congress on the SBA budget, Administrator James C. Sanders noted:

The great majority of small businessmen do not want direct loans. They are a drain on SBA resources which could be better utilized elsewhere. They are few in number and take a lot of time to process and service.

The Committee concurs in the Administrator's assessment.

The Committee bill also increases authorization levels for the salaries and expenses of the agency in order to insure that a sufficient level of personnel is available to discharge its responsibilities and effectively meet its Congressional mandate.

B. SBIC'S AND MESBIC'S

The Committee has traditionally supported adequate funding for the SBA Small Business Investment Company (SBIC) and Minority Enterprise Small Business Investment Company (MESBIC) programs.

In the last Congress, the Committee held two hearings which extensively reviewed the role of SBIC's and MESBIC's in providing needed capital to small business. Although the hearing pointed out some regulatory problems in the industry, the record on the whole demonstrated that SBIC's and MESBIC's are valuable economic development tools that play a vital role in assisting small and minority small businesses.

SBIC's and MESBIC's are SBA-licensed companies which, through a private and public sector partnership, provide equity

capital, long-term loans and management assistance to small business concerns and to small business concerns owned by socially or economically disadvantaged persons.

In return for a commitment to invest in small businesses, SBIC's are licensed by SBA and authorized to issue a debenture which is guaranteed by the Federal Government at the full cost of money to the Treasury, plus a premium; MESBIC's, which go through the same licensing procedure, obtain leverage capital from the government through the purchases of preferred securities in the MESBIC itself and through debentures. To be currently licensed as an SBIC or MESBIC, the company must first have a minimum of \$500,000 in private sector, paid-in capital. Before an SBIC can leverage any funds, it must have first committed at least 60 percent of its own capital to investments in small business concerns.

At a December 16, 1982 Committee hearing, James C. Sanders, Administrator of the SBA, testified "that this innovative program has succeeded in providing unique and much needed assistance to small businesses." He called the benefits of the program "impressive," and said that since its inception, nearly \$4.5 billion of financial assistance has been provided to more than 66,000 small concerns. These firms in turn have produced jobs, economic gains, and tax revenues far exceeding the government's cost of operating the program, Sanders told the Committee. In calendar year 1982, 2,177 small businesses received \$322.9 million in disbursements from SBIC's.

As part of their internal evaluation of the program, SBA tracked the growth of 100 small business recipients of SBIC financing through their participation in the SBIC portfolio. The agency found substantial improvements in the employment, sales, profits, and assets of these client firms. After tracking these portfolio companies for six years, SBA found that they had increased employment by a net 1,866 jobs at the end of that period. These 100 firms received initial SBIC disbursements of \$12.2 million and benefited from an estimated \$40 million dollars of SBIC financing.

As a result of this successful track record, the Committee's bill increased the SBIC program level from \$160 million to \$250 million for fiscal years 1983 through 1984 and established it at that same level for fiscal year 1985. The bill also increased the MESBIC funding (which comes in the form of a direct loan) from \$35 million to \$45 million for fiscal years 1983 through 1984, and established it at that level in fiscal year 1985.

C. "SECTION 503" CERTIFIED DEVELOPMENT COMPANY LOAN PROGRAM

The Small Business Administration's section 503 certified development company program is one of the Federal Government's primary economic development programs. The section 503 program, enacted in 1980, was designed to make the SBA an active partner with state and local governments and the private sector in making long-term capital available for small business expansion and job creation. The 503 program is already playing an important role in revitalizing local communities across the nation. Under section 503, banks are encouraged to make, and are making, long-term loans to small businesses under more favorable terms. Prior to the pro-

gram's enactment, there was little long-term, fixed-asset lending available for many of these companies.

Section 503 authorizes the SBA to guarantee debentures issued by certified development companies (CDC's) to finance the acquisition of land, plant, and equipment for small business expansion. The commitment of a substantial number of new jobs resulting from the expansion is a requirement before any such loan can be made. SBA guarantees up to 40 percent of the project costs; 10 percent comes from the small business itself; and the remaining 50 percent comes from a private sector, third party lender, such as a bank. Maturities on these loans can be for up to 25 years.

SBA began certifying CDC's in late 1980. As of April 30, 1983, 381 had been certified. A majority of these development companies are just getting off the ground, but 150 of them had already been involved in at least one financing by the end of 1982 and 90 of them had made more than one loan. As of April 30, 1983, 1,185 loans had been made.

The 40 percent of the project costs put up by the CDC's for these 1,185 loans totalled \$217.5 million. By October 1, 1982, 28,846 documented jobs had been created as a result of financings made under this program, with an average SBA investment per job of only \$3,990. The current SBA estimate of the number of jobs created approaches 40,000 and the average investment per job has been steadily dropping since the inception of the 503 program. The vast majority of the jobs created have been permanent jobs in the manufacturing and wholesale/retail industries. In every quarter since the creation of the 503 program, more and more jobs have been created and the Federal commitment per job has declined. It is the Committee's belief that section 503 is a classic example of a Federal jobs program that works, and works well.

However, the Administration, in complete disregard of clearly expressed congressional intent, has refused to guarantee or participate in 503 loans for projects in which industrial development bond financing is also being used. This action has been taken as part of the Administration's overall policy of discouraging the use of small-issue Industrial Development Bonds.

On September 28, 1982, and February 17, 1983, the Committee held oversight hearings on the Small Business Administration's implementation of the 503 loan program. The testimony at these hearings was unanimous in calling the 503 program "excellent," with only one major glaring defect preventing it from becoming the Federal Government's major economic development program—the refusal of the SBA to participate in any 503 loan where other parts of the financing package include, or are collateralized by, tax-exempt Industrial Development Bonds.

The great demand for this program in the small business community has been artificially impeded by the Administration's policy on IDB participation. The Committee believes that this policy must be changed. The Committee has already reported separate legislation (S. 499) to address the appropriate use of tax-exempt financing in this program, which, when enacted, will increase the demand for funding under the program. A provision incorporated in the Emergency Jobs Act, P.L. 98-8, explicitly permits the use of tax-exempt financing during fiscal year 1983.

The committee bill also makes statutory changes in the section 501 program by authorizing SBA to purchase or guarantee debentures issued by state development companies.

Accordingly, the Committee bill increases the program level for the section 501, 502, and 503 programs from \$350 million to \$500 million in fiscal years 1984 and 1985.

In addition to the question of the appropriate use of tax-exempt financing, at each of the two oversight hearings on the 503 program and at the April, 1983 hearing on Senator Nunn's legislation to increase the program levels for the 503 program, witnesses raised concerns about the Small Business Administration's procedural policy of prohibiting the use of 503 debentures unless the ownership of both the fixed assets to be financed, and the small business concern which will use those fixed assets, are identical. This has been referred to as the "alter-ego" rule. SBA standard operating procedures state that:

The proceeds of the loan to be used to benefit directly such applicant (alter-ego) will be used only to acquire or improve real or personal property for the *exclusive* use of such (small business concern)." (Emphasis added.) SOP 50-22, Chapter 4, paragraph 15(a)(iii).

It is common, and even wise business practice, for a firm which may have the immediate need to expand its physical plant into larger quarters to, at the same time, plan for its future business growth by seeking space in excess of its present need and leasing the balance for a fixed term. This business arrangement is designed to insure that the facilities are available to the concern in the future when they are required, but that in the interim, they may be rented out to productively use the excess space and assist the new owner in meeting the debt service requirements of the larger facility.

Under current SBA regulations, such a transaction would not be allowable under the 503 program.

Similarly, SBA's current procedures also state:

The ownership interests in the applicant (alter-ego) shall be completely identical with and in the same proportion as the ownership interest in such small business concern, and the identity of interests shall remain unchanged until the loan is repaid in full or SBA sooner gives approval to a change." SOP 50-22 Chapter 4, paragraph 15(a)(iv).

For example, such a provision would prohibit the use of the 503 program if a parent were to divide the stock ownership of the business in any manner among four children, but where only three children were participants in its operation and were seeking equipment to modernize the facility.

The Committee is concerned that the strict adherence to these provisions has denied financial assistance to otherwise fully qualified and deserving small business concerns that Congress, through the adoption of section 503, intended to assist.

In developing its current position on the "alter-ego" rule, the agency had cited three principle reasons for not adopting an alternative approach which would allow "substantially the same," or

majority ownership, to be eligible for financing: (1) that with identical ownership, there is little or no chance of a conflict of interest; (2) there would be a problem of establishing another standard which could be as consistently applied by the field offices; and (3) that having another standard would increase the possibility of ineligible small businesses receiving SBA loans.

The Committee has been generally pleased with the agency's implementation of the 503 certified development company program, and the controls which have been put into place to insure that the financial assistance is made available with the least amount of burden, but maximum protection. The Committee does not want the program to be a financing tool for speculators in fixed asset financings.

By the same token, however, the Committee is concerned about the inflexible requirement of the "alter-ego" rule, and the effect it is having on those firms in need of, and which could benefit by, financing under the 503 program, but who for legitimate business or tax reasons, do not have completely identical ownership interests.

Therefore, the Committee urges the Small Business Administration to use its regulatory authority to modify the alter-ego rule to permit needed flexibility in instances such as the ones cited, and in similar types of transactions, which should be eligible for assistance under section 503.

The Committee notes that, for purposes of determining whether SBA size standards are complied with, SBA defines a "small business" by using an affiliation rule which aggregates related entities to the common owner. This rule has been consistently applied by SBA field offices. Similarly, the agency should be able to establish consistent rules in this instance.

If changes are not made administratively, the Committee may consider making changes legislatively.

D. BANK GUARANTEE LENDING PROGRAM

SBA's loan guarantee programs have traditionally helped many small businesses sustain and expand operations. At times when banking regulations often constrain private lending institutions from meeting the long-term capital needs of any small businesses, the loan guarantee program has helped intrepeneurs to compete and gain entry into the economic mainstream. In this way, it allows small businesses to create and sustain jobs.

An extensive study of the 7(a) Guaranteed Lending Program prepared by the General Accounting Office (GAO), and released in April 1983, supported the proposition that the 7(a) program helps small businesses overcome discrimination and imperfections in the capital market. GAO found that the absence of a 7(a) loan guarantee program would result in many small businesses not getting long-term credit because of credit rationing in the capital market. Without the SBA guarantee, borrowers would simply not qualify for private market assistance or would likely only qualify with shorter maturities, higher interest rates, or smaller loan amounts, the study said.

Bankers surveyed by GAO said that 82 percent of the loans made under the general business guaranteed lending program would not have been on the same terms and conditions, if at all, without the guarantee.

The Committee believes that guaranteed loans to promising small businesses are investments that regularly provide returns not only to the business recipient, but to the entire community in which it is located, in the form of new jobs and economic revitalization. Commercial lenders historically have been unable to provide sufficient long-term financing to small businesses. The Committee agrees with GAO that without the SBA guaranteed lending program, it would be extremely difficult for small businesses to obtain credit, especially long-term credit.

The Committee has consistently supported the guaranteed lending program as the most efficient, economical, and practical means of providing access to debt-financing for small businesses.

SBA followed the initiative taken by this Committee in 1980, by establishing the certified and preferred lenders programs. These programs have demonstrated that private sector financial institutions can and will join in a cooperative arrangement with the Federal Government to make competitive financial assistance available to small businesses.

Administrator Sanders, in recent Congressional testimony, indicated the direction of SBA's financial assistance programs:

I am placing primary reliance on our Preferred Lender and Certified Lender programs, in which banks and other lenders will do most of the processing and servicing of our guaranteed loans. In this way small business will receive faster and more efficient service and they will also be able to establish a track record with a bank, which is very important to long run viability and isn't done when your financing comes directly from the government. I feel that this is a program for the 80's—more efficient and more small business-oriented than the old direct loan program.

The Committee has noted, however, that the recent severe recession, coupled with record interest rates, significantly and understandably reduced the loan demand in the private sector, as well as in the SBA guaranteed lending program. Nevertheless, the Committee remains convinced that, based on all of the testimony and information available to it, this program should not only be maintained, but increased.

Accordingly, the bill provides modest increases in SBA's general business loan program levels in fiscal year 1984 from \$2.708 billion to \$2.8 billion and establishes a fiscal year 1985 level of \$3.0 billion.

The Minnesota Plan

On August 2, 1982, the Small Business Administration authorized a pilot project in the State of Minnesota to test a method of making long-term, fixed-rate loans to small businesses under SBA's guaranteed loan program. The notice of the pilot project appeared in the Federal Register (Volume 47, Number 155, Page 34871) on August 11, 1982. Since it was announced, the pilot project has become known as the "Minnesota Plan."

Under the Minnesota Plan, the Minnesota Small Business Finance Agency (MSBFA) issues long-term, fixed-rate, taxable bonds. The proceeds of the bonds are used to purchase the guaranteed portion of SBA loans from approved lenders. The lenders make long-term, fixed-rate SBA guaranteed loans based on the yield of the bonds.

In its regulations, SBA authorized the Minnesota Plan through September 30, 1983, but reserved the right to extend the project for no more than 6 months. On May 11, 1983 SBA extended the project through March 31, 1984.

The numerous legal and financial details necessary to obtain a satisfactory bond rating and implement the Minnesota Plan have caused unavoidable delays. MSBFA anticipates obtaining a commitment to purchase its bonds prior to June 1, 1983, with loans approved under the Minnesota Plan to follow in the near future. If loans are approved beginning July 1, 1983, the effective duration of the Minnesota Plan will be limited to nine months.

The Committee commends SBA and MSBFA for undertaking this innovative project. In addition, SBA is to be commended for extending the project through March 31, 1984. However, the Committee recognizes the need for an adequate period of time to evaluate fully whether the Minnesota Plan serves the interests of the small business community.

The Committee urges SBA to seriously consider one additional extension of the pilot program authority beyond the March 31, 1984 date. Furthermore, the Committee expects the agency to evaluate thoroughly the basis for, and implementation of, the Minnesota Plan, and make recommendations to the Committee on whether the pilot project should be retained, expanded, or terminated.

E. DIRECT LOAN PROGRAM REDUCTIONS

The Committee is recommending the virtual elimination of SBA's direct loan program, with the exception of assistance to MESBIC's, handicapped, and veterans. As noted earlier, MESBIC's represent a unique public-private sector partnership which assists minority entrepreneurs. Handicapped and veterans loans assist the most disadvantaged segment of our society and aid those groups in becoming self-sufficient.

The principal debate during the May 13, 1983 executive session focused on the recommendation of Senators Weicker and Nunn to eliminate direct lending programs at SBA, with the exception of handicapped, while at the same time increasing the levels for guaranteed loans.

It was the belief of the Chairman and Ranking Member, later endorsed by the majority of the Committee, that the time had come to fundamentally change the lending activities of SBA.

This Committee began addressing the funding constraints in 1981 through changes enacted as part of the Reconciliation Act of that year. Specifically, the Committee initiated, and the Congress approved, a 50 percent reduction in the total program levels for direct loans at SBA and the elimination of the interest subsidy that direct loans enjoyed in prior law.

In part because of statutory changes, the number of loans and average size of the loans have also decreased. In fiscal year 1982, the agency made less than half the loans, at half the dollar amount, than it made two years earlier: 2,606 loans for a total of \$145.5 million. In the Committee view, it is unfair to tell prospective borrowers that a direct loan program exists when in fact, so few dollars are available for loan-making purposes.

The administrative function of making loans is also costly and highly labor-intensive. As the Committee noted earlier, SBA has neither sufficient personnel, nor the necessary Congressional appropriations, to effectively implement such a program.

Veterans direct loans

In the 97th Congress, several Committees expressed their dissatisfaction with SBA's efforts to implement the veterans' "special consideration" provisions of prior law, and to make financial assistance available to veterans. Congress enacted, and the President signed, Public Law 97-72 which, in part, established a direct and guaranteed loan program within the Veterans Administration SBA's direct and guaranteed programs for other small businesses. As part of the fiscal year 1983 Continuing Appropriation Resolution, Congress added \$25 million in direct loan funds for SBA to implement the veterans' loan program at the agency which already had the infrastructure to operate that program. The SBA program has been operating in the first several months of fiscal year 1983 without any explicit statutory authorization.

Following the Committee's rejection of this amendment to restore \$150 million in the direct lending program, Senator Tsongas offered a second amendment that would establish in fiscal years 1984 and 1985 an additional direct loan program of \$25 million each year for Vietnam era and disabled veterans.

By voice vote, the Committee adopted this Tsongas amendment.

Accordingly, the bill eliminates the direct loan programs at SBA for fiscal years 1984 and 1985, except for \$20 million for the Handicapped loan program, \$25 million for veterans and \$45 million for the MESBIC program.

While the Committee basically supports the Administration's position on direct loans, it strongly disagrees with the Administration's funding recommendations on the guarantee programs. However, the Committee notes that Administrator Sanders, in April 1983 testimony before Senator Weicker, indicated that "for supporting the elimination of direct lending" he would be willing to "negotiate a high level of commitments of guarantees."

This Committee has consistently held that for the agency to be effective, it must maximize the use of the programs that leverage private sector resources and expertise. For every government dollar actually spent in the guaranteed programs, five times that amount is lent out to worthy small businesses starving for affordable capital.

To assure the appropriate allocation of agency resources between direct and guarantee lending, the Committee has also adopted an amendment offered by Senator Levin establishing a minimum program level for guarantee loans (see Program Guarantee Authority section of Committee Report).

F. SALARIES AND EXPENSES

Under salaries and expenses, all of the agency's non-lending activities are funded. The Committee believes that the original budget submission of the agency understated the needs of several high priority programs.

Accordingly, the Committee bill recommends \$256.5 million for the salaries and expenses portion of the SBA budget for fiscal year 1984. The Committee assumes that \$15 million budgeted for business development expense will be accounted for under the Business Loan and Investment Fund, rather than the salaries and expenses account as suggested by the Administration. Therefore, the Committee's recommendation is \$23.4 million over the Administration's salary and expense request in fiscal year 1984.

Small business development centers

Under Public Law 96-302, the Congress established the Small Business Development Center (SBDC) program. This management assistance delivery system is now in 23 states. It is the Committee's understanding that an additional five states have applications pending at the agency.

Under the law, the program is scheduled to sunset on October 1, 1984. Senators Weicker and Nunn intend to introduce legislation to eliminate the sunset provision, and will continue to hold oversight hearings on the program.

For fiscal year 1984 the Administration requested \$14 million. Given the growth of the program, the Committee believes that amount is insufficient, and recommends \$20 million be allocated for the SBDC program in fiscal year 1984.

Office of Veterans Affairs

Public Law 93-237 requires SBA to give "special consideration" to veterans in the delivery of its assistance programs. In response to concerns expressed by veterans organizations, in the Continuing Resolution, Public Law 97-276, \$3 million was earmarked for SBA's Office of Veterans Affairs.

The Congress approved this infusion of funds to that office in an effort to improve the management and technical assistance provided to Vietnam-era and disabled veterans.

There are more than 30 million veterans in the United States. Of these, it is estimated that there are 40 percent in the age-group historically involved in new business starts. SBA's commitment to develop business ownership among those individuals who have honorably served the country in its Armed Forces is reinforced by the Congressional instruction to provide special consideration to veterans.

In April 28, 1983 testimony before the Senate Appropriations Committee, Administrator Sanders indicated that approximately \$1.5 million will be used in fiscal year 1983. Mr. Sanders indicated that SBA intends to work with veterans organizations to improve the agency's outreach program and increase attendance at SBA-sponsored veterans' assistance workshops.

Unfortunately, in the fiscal year 1984 budget submission, the agency requested only \$289,000 for the Office of Veteran Affairs.

The Committee believes this level to be totally inadequate and has allocated an additional \$1.8 million for the Office of Veterans Affairs for personnel and administrative costs, as well to assist the agency in meeting its Congressional mandate.

Innovation and research

In fiscal year 1983, the Congress specifically earmarked an additional \$1 million for the Office of Innovation, Research and Technology at SBA to develop a technology transfer information system. These funds will be used to assist small business participation in the Small Business Innovation Research program, as established in Public Law 97-219.

The Committee believes this initiative should continue. Small businesses need to have access, on a timely basis, to the most recent data on technological innovations in order to effectively respond to agency solicitations.

Accordingly, the Committee has included an additional \$500,000 for fiscal year 1984 for this technology transfer program at SBA.

Personnel levels

In fiscal year 1984, the Administration requests funding for 3,910 permanent positions for SBA. Currently, an additional 425 people are employed on a "temporary" basis to perform disaster loan servicing and liquidation assistance.

As of 1982, SBA's loan portfolio was \$17.9 billion, with 476,022 loans requiring service. It is the Committee's belief that the Congress should recognize the enormous growth in this portfolio, and allocate, on a permanent basis, the appropriate number of people to handle a fund of this size. Accordingly, \$15 million is added to the Administration's budget request to allow for additional permanent staff to accommodate the increased demand expected to result from the guarantee levels recommended in the Committee's bill.

G. POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE PROGRAM

By amendments in 1976 to the Small Business Investment Act of 1958, Congress authorized the Small Business Administration to guarantee 100 percent of the payments due from eligible small businesses under qualified contracts for the planning, design, financing or installation of pollution control facilities or equipment mandated by governmental pollution control regulations. Contract financing is normally obtained from the proceeds of the sale of tax exempt bonds issued by state or municipal authorities.

By using tax-exempt, SBA-guaranteed, pollution control bonds, SBA cooperates with commercial and investment banks and local and state authorities to make financing available to eligible small businesses for pollution control equipment mandated by an environmental regulatory agency.

The Committee has extensively reviewed the benefits of this program through several oversight hearings. Since the 1976 initiative, there has not been a single loss in the program. This initial \$15 million capital contribution to the Pollution Control Bond Revolving fund has almost tripled through fees charged for guarantees and agency investment of idle funds.

The Congress has recognized the sound financial basis for this program, as well as the crucial gap it fills in making financing available to eligible small businesses for mandated, non-productive, pollution control equipment. For example, in the Omnibus Reconciliation Act of 1981 (P.L. 97-35), the Congress increased the maximum guarantee level for this program to \$250 million. The Committee restates its support for this guarantee level of \$250 million for fiscal years 1985 through the reauthorization of the program at this guarantee level.

The Committee has also consistently viewed the continued availability of the guarantee of contracts financed with tax-exempt financing instruments to be essential. Repeated testimony by small business owners, bankers, underwriters, and state pollution control financing agencies overwhelmingly demonstrates the importance of small businesses' continued access to this small but crucial source of guarantee authority. The Committee has already reported separate legislation (S. 499) to address the appropriate use of tax-exempt financing in this program. The Committee reaffirms its judgment that it is sound public and fiscal policy to continue to permit small businesses which are forced to install nonproductive pollution control equipment to have access to this important (and often only) source of capital.

H. SURETY BOND GUARANTEES PROGRAM

Small business contractors and subcontractors who seek public (and some private) construction jobs are often required to furnish surety bonds. Through its Surety Bond Guarantee program, SBA can assist such contractors by extending a guarantee to a surety of up to 90 percent against loss in order to make bonding more easily obtainable. Bid bonds, as well as payment and/or performance bonds, may be guaranteed on contracts of up to \$1,000,000. SBA may guarantee up to 90 percent of bonds less than \$250,000 and up to 80 percent of bonds from \$250,000 to \$1,000,000. SBA may also pay a surety up to 10 percent of the value of the contract in order to prevent a breach of that contract when such a breach is imminent.

It is clear that without SBA's Surety Bond Guarantee Program, an untold number of viable small business contractors would not be able to operate and compete. Since the inception of the program in 1971, through April 30, 1983 the Agency has guaranteed bonds on 150,000 contracts with a value of approximately \$12 billion.

There have been substantial problems with SBA's management of this program. However, because of the Committee's oversight hearings, SBA has tightened up its underwriting procedures and claims-handling to insure that the program is not abused.

In the Surface Transportation Act of 1982, Congress provided that 10 percent of the funds authorized under that Act would be expended with small businesses owned by socially and economically disadvantaged individuals. In order to perform contracts for the Federal Government under this Act, those firms must be able to obtain bonding. Since the SBA Surety Bond Guarantee Program is virtually the only program available that can provide access to

bonding for those firms, the Committee anticipates increased demand on this program as a result of this new law.

Accordingly, the Committee agreed to maintain the Surety Bond Guarantee program level at the current law program level of \$1.4 billion for fiscal year 1985.

I. STATE DEVELOPMENT COMPANY PROGRAM

Section 2 of the Committee-reported bill incorporates in full S. 744, introduced by Senator Nunn, and cosponsored by 12 other Senators. This bill is similar to legislation proposed in the 97th Congress. Pursuant to the laws of individual states, an economic development authority, or business development corporation may be formed. These entities typically derive their private capital by borrowing funds from member financial institutions. The Small Business administration, pursuant to the provisions of section 501 of the Small Business Investment Act of 1958, is given explicit statutory authority to make long-term direct loans to these state business development companies. The proceeds of loans made by SBA to these state development companies may be used to provide equity capital or long-term loans to small businesses.

In 1982, there were 24 State Development Corporations, although only sixteen were active. Bank financings made in conjunction with "501" company loans totalled over \$71 million, with almost half of the financial aid going to manufacturing firms.

During the past two years only, the agency has virtually terminated any access to direct loans for these state development companies. While some of the 501 companies have been able to continue making a limited number of loan transactions with small businesses through drawdowns on lines of credit they have with their member firms, others have not been able to continue that outreach.

Neither the Congress, nor to the best of the Committee's knowledge, SBA, has actively sought to terminate the authority of these state development companies to continue as active financial partners in community economic development. Yet that has been the practical effect of the denial of access to direct loans for these business development companies.

The 501 authority dates to an original provision of the 1958 Small Business Investment Act, and SBA's participation with these business development companies is limited, by statute, to direct loans.

Under the terms of the Committee bill, the SBA is given additional statutory authority to purchase or guarantee debentures issued by State Development Companies. The authority to purchase or guarantee debentures is similar to the existing authority Congress has given SBA in SBIC program. In fact, it has been noted that, to the extent that the 501 companies operate in a manner very similar to the regular SBIC's (with the exception of access to additional tiers of leverage) these state development companies would be considered "economic development SBIC's."

Under the terms of the Committee-approved bill, the first two amendments to section 501 are technical in nature. The third amendment adds a new sentence at the end of the current authori-

ty of section 501, and incorporates the terms and conditions established in a new subsection (c) under which SBA may purchase or guarantee debentures, but provides that SBA may not regulate, or otherwise limit access to such purchases or guarantees because of the use of investment by the development company of funds obtained by the development company from other sources. The Committee intends that, pursuant to this provision, SBA would not review each loan made by a development company.

New subsection (c) of section 501, as added by the fourth amendment, in this section of the bill, grants authority for SBA to purchase or guarantee debentures, except those debentures collateralized by tax-exempt bonds. This limitation has been added for two reasons. First, it is highly unlikely that the two-party financial transaction using this debenture and involving only the state development company and SBA could involve any form of tax-exempt collateral. Secondly, while this Committee has strenuously worked to insure that SBA does not deny the use of tax exempt financing in appropriate SBA programs, similarly, this Committee should readily acknowledge where such use is not appropriate and explicitly state it.

New paragraph (c)(4) of section 501, as added by this bill, provides that debentures issued by the state development company and purchased or guaranteed by SBA, shall be treated on an equal basis in repayment and liquidation with other debts and obligations of the 501 company unless SBA determines that there is a reasonable investment reason to permit the subordination by SBA to the development company's debenture. This provision is taken from the current direct loan agreement executed by the SBA and the development companies, and is consistent with the Committee's intention to maintain the financial relationship between the two parties in the use of this additional financing tool.

The interest to be charged on debentures issued by a state development company, according to the provisions of new paragraph (c)(5), will be the same rate as charged to SBIC's. That rate is determined monthly by the Secretary of the Treasury.

While SBA may charge an additional fee to cover administrative expenses, it is the Committee's expectation that the fee would be reasonable to meet any incremental costs of processing these debentures. The fee should be consistent with the administrative fees that the agency charges in other similar funding transactions.

Paragraph six of new subsection (c) added by this bill imposes a limitation on the use of proceeds by the development company derived from the SBA purchase or guarantee of debentures issued by the development company. The Committee notes that under SBA's current regulation (13 CFR 108. 501-1(e)), the agency may establish a framework for the permissible use of "501" direct loan funds. Like the regular SBIC program, but unlike the specific project-by-project approval process Congress established in the section 503 certified development company program, the bill provides authority for SBA to generally determine the appropriate use of funds derived from these debentures. However, it does not provide authority for the agency to review and approve financing transactions between the business development corporations and their small business portfolio companies.

In section one of the Committee's reported bill, the lending authority for debentures to be purchased or guaranteed pursuant to the provisions of section 501 have been incorporated within the general authority for debentures to be used by the 503 program. Testimony at the Committee's April hearing indicated that as much as \$15 million in SBA financings could possibly be used by the 501 companies.

Without diminishing this Committee's commitment to the growth and full utilization of the 503 program, the Committee expects the increases provided for "development company debentures" under the program levels in the agency to be sufficient to accommodate the demands of both the 501 and the 503 program. In future years, should circumstances warrant, the Committee could undertake to separately establish programs levels for the 501 and the 503 program. The Committee is not trying to set up a competition among the two private sector leveraged, and important economic development and job creating programs.

J. ELIGIBILITY OF CERTAIN NOT-FOR-PROFIT ORGANIZATIONS FOR ASSISTANCE UNDER THE HANDICAPPED PROCUREMENT PROGRAM

With the adoption of P.L. 96-302 in 1980, section 15(c) of the Small Business Act was amended to permit sheltered workshops and rehabilitation facilities employing handicapped persons to bid on contracts with the Federal Government under the government's set-aside program for small business, but not to exceed \$100 million for each fiscal year. The program was limited to fiscal years 1981, 1982, and 1983 to tests its impact on the for-profit small business community. In addition, in the event of a complaint of adverse impact on a small business, the statute provided that the Administrator of SBA and the Executive Director of the Committee for the Purchases from the Blind and Other Severely Handicapped would resolve the dispute.

Pursuant to P.L. 96-302, in December 1982, the Agency submitted to Congress a report assessing the impact of the eligibility of not-for-profit organizations in the set-aside program. The report concluded that:

The \$100 million ceiling authorized by the Act appeared to be more than adequate;

Of four Federal agencies responding to the SBA's request for data, they reported a total dollar value of only \$723,956 in contracts;

There were no complaints from small businesses concerning the participation of not-for-profit sheltered workshops in the program; and

It was the opinion of SBA that no measurable economic injury was sustained by small businesses as a result of the participation of not-for-profits in the set-aside program.

Accordingly, given the potential benefit that this program has for handicapped employed in sheltered workshops, the small volume of contracts awarded to not-for-profits and the lack of complaints from small business concerning their participation in the program, the Committee made permanent the provision in section 15(c) of the small Business Act permitting sheltered workshops and

rehabilitation facilities employing handicapped persons to participate in the set-aside program for small businesses, but not to exceed \$100 million per year. The Committee bill also requires SBA to report annually to the Congress on the impact of Contracts awarded under this section.

K. PROGRAM GUARANTEE AUTHORITY

Senator Levin offered, and the Committee adopted, an amendment to establish minimum program authority for the Small Business Administration's guaranteed programs. The amendment provides that the Small Business Administration shall enter into commitments to guarantee loans, debentures and other types of financial assistance in the full amounts provided by law, subject only to the availability of qualified applications, and limitations contained in appropriations acts.

The Committee, by the adoption of this amendment specifically prohibits SBA from administratively reducing commitments to guarantee established in law. Reductions would be effective only if the Congress subsequently approves, through appropriate action, recommendations for reductions submitted to the proper Committees by the Executive branch.

Under this amendment, the SBA shall continue to enter into commitments to guarantee applications only with applicants that are qualified under the statutory authority establishing such guarantee program and the Administration's implementing rules and regulations.

This amendment also provides that the Small Business Administration will enter into commitments to guarantee in the full amounts provided by law, further subject only to limitations contained in appropriation Acts.

On November 5, 1981, the Administration announced a unilateral reduction of previously authorized new Federal loan guarantee commitments for fiscal year 1982 by \$20.3 billion. For the Small Business Administration, this announcement forced a reduction of \$985 million in loan guarantee authority provided to the SBA by Congress in the Omnibus Reconciliation Act of 1981.

This Committee cannot accept unilateral administrative reductions in the SBA's guarantee program levels once enacted by Congress. To allow administrative reductions of SBA loan guarantee authority would negate the priorities this Committee, the Congress and the President have jointly established in law for the Small Business Administration.

Moreover, to allow these reductions to remain in effect through administrative action only would disregard the actions which the committee initially took to set guarantee program levels for the SBA, and the actions of the Appropriations Committees to support these levels.

The Committee recognizes that, in the absence of this amendment, a similar unilateral administrative reduction could be made in the level of guarantee authority established by the Committee and the Congress for the SBA during future fiscal years. Other than the approach adopted here, or individually establishing floors for each of the agency's lending programs, no mechanism is availa-

ble to this Committee, or Congress, to participate in that critical budgetary decision-making. However, it is not the Committee's intent that SBA be required to enter into commitments where the guarantee authority is not being used because of an absence of applicants, or where the applicants do not meet the threshold eligibility requirements for such guarantee as provided for in law.

This amendment is identical to a provision approved by this Committee last year, and incorporated into S. 2408. Congress already has enacted into law similar provisions on two separate occasions, most recently in the First Continuing Resolution for fiscal year 1983 (section 145 of P.L. 97-276). The SBA has written to Senator Levin indicating that it is having no difficulty in complying with the terms of the law. The provision in current law expires on September 30, 1983.

III. SECTION-BY-SECTION ANALYSIS

Section 1.—Amends section 20 of the Small Business Act as follows:

(1) Authorizes SBA to purchase or guarantee debentures issued by State Development Companies under section 501 of the Small Business Investment Act of 1958. Increases the fiscal year 1983 program level for guarantees of debentures issued under section 503 and 501 from \$350 million to \$400 million.

(2) Increases the fiscal year 1983 program level for MESBIC's from \$35 million to \$45 million and for SBIC's from \$160 million to \$250 million.

(3) Eliminates the direct loan program levels for fiscal year 1984, except for the Handicapped direct loan program which is increased from present law level of \$15 million to \$20 million, and for a veterans direct loan program of \$25 million.

(4) Increases the fiscal year 1984 program level for the general business loan guaranteed program from \$2.708 billion to \$2.8 billion. Authorizes SBA to purchase or guarantee debentures issued by State Development Companies under section 501 of the Small Business Investment Act of 1958. Increases the program level for the section 503 and 501 programs from \$350 million to \$500 million.

(5) Increases the fiscal year 1984 program level for MESBIC's from \$35 million to \$45 million and for SBIC's from \$160 million to \$250 million.

(6) and (7) Increases for fiscal year 1984 the total "authorized to be appropriated" for all SBA programs and administration from \$804 million to \$1,169,500 million, and of this sum, to accommodate the programs in the Business Loan and investment Fund (BLIF), authority was increased from \$531 million to \$779 million, and Salaries and Expenses for the agency were increased from \$239 million to \$256.5 million.

(8) Eliminates in fiscal year 1984 all Salaries and Expenses program floors and sub-floors.

(9) Adds at the end of section 20 a new subsection (t) establishing the following levels in fiscal year 1985 for the SBA programs:

(1) \$20 million for the Handicapped direct loan program, and \$25 million for a new direct loan program for veterans.

(2) Guaranteed Loan Program levels of:

	Millions
General business loan	\$3,000
Handicapped	5
EOL	60
Energy	15
501 and 503	500

(3) MESBIC's, \$45 million (direct); SBIC's, \$250 million.

(4) Surety Bond Program, \$1.4 billion.

(5) Prohibits any loan under the section 7(b)(3) non-physical disaster assistance program which permits loans to small businesses because of economic injury due to direct government interference, Federal law, or State of local action in conformity with Federal law.

(6) Authorizes \$250 million for the Pollution Control Bond Guarantee Program.

(7) Authorizes such sums as are necessary to fund the Disaster loan program.

In addition, adds a new subsection (u) to provide authorization for funds to be appropriated for fiscal year 1985 as follows:

	Millions
BLIF	\$576
Surety	30
Lease	4
Salaries and expenses	261
Total	871

Section 2—Amends section 501(a) to permit SBA to purchase or guarantee debentures issued by State Development Companies.

Adds a new subsection (c) which provides specific authority for State Development Company debentures only, as follows:

Subsection c(1) provides that the Administration may not purchase or guarantee debentures collateralized by tax exempt obligations.

Subsection c(2) provides that SBA may establish by regulations such terms and conditions for the government guarantee as it deems appropriate and that it may charge an additional fee for the government's guarantee to cover administrative expenses.

Subsection c(3) provides that the "full faith and credit" of the government is pledged to the government's guarantee.

Subsection c(4) provides that in the event of default, the government's rights in repayment and liquidation are equal to those of other creditors, unless SBA has determined that the debentures to be purchased or guaranteed should be subordinated to the other debts and obligations of the State Development Company.

Subsection c(5) provides that the interest rate on the debentures guaranteed by the government shall be determined by the Secretary of Treasury pursuant to section 303(b) of the Small Business Investment Act (the rate charged for SBIC's).

Subsection c(6) provides that the proceeds of any such financing shall be used solely to assist an identifiable small business concern and for a sound business proposal as determined by the Administration.

Section 3—Makes permanent the provision in section 15(c) of the Small Business Act which permits sheltered workshops and reha-

bilitation facilities employing handicapped persons to bid on contracts with the Federal government under the set-aside program for small businesses, but not to exceed \$100 million per year. The bill also requires that SBA report annually to the Congress on the impact of this program.

Section 4—Requires that the Small Business Administration shall enter into commitments to guarantee loans, debentures and other types of financial assistance in the full amounts provided by law, subject only to (1) the availability of qualified applicants for such guarantees, and (2) limitations contained in appropriation Acts.

IV. MATTERS REQUIRED TO BE DISCUSSED UNDER SENATE RULES

A. COMMITTEE VOTE

In compliance with Rule XXVI (7)(B) of the Standing Rules of the Senate, the following roll call votes were recorded:

On the motion to adopt the Tsongas-Huddleston amendment to restore the Small Business Administration's direct loan program to a level of \$150 million for fiscal years 1984 and 1985:

YEAS (8)
Huddleston ¹
Bumpers ¹
Sasser
Baucus
Levin
Tsongas
Dixon ¹
Boren ¹

NAYS (10)
Weicker
Hatch ¹
Boschwitz ¹
Gorton
Nickles ¹
Rudman
D'Amato
Kasten ¹
Pressler ¹
Nunn

¹ Indicates vote by proxy.

On the motion to favorably report an original bill to amend the Small Business Act and the Small Business Investment Act of 1958, the Committee, by a voice vote and with a quorum present, ordered the bill reported.

B. COST OF LEGISLATION

In compliance with Rule XXVI of the Standing Rules of the Senate, the Committee estimates that the cost of the legislation will be equal to the amounts indicated by the Congressional Budget Office in the following letter:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. May 16, 1983.

Hon. LOWELL P. WEICKER, Jr.

Chairman, Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a bill to amend the Small

Business Act and the Small Business Investment Act of 1958, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM

(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Small Business, May 13, 1983.

4. Bill purpose: This bill would make a number of changes to the programs administered by the Small Business Administration (SBA). It would amend the authorization levels for fiscal year 1984 as provided in Public Law 97-35, the Omnibus Reconciliation Act of 1981, and amend the Small Business Act and the Small Business Investment Act. It would revise various business loan program levels in 1984, and provide a new authorization of appropriations in 1985 for these programs. The bill also authorizes such sums as may be necessary for fiscal year 1985 for the disaster loan fund.

5. Estimated cost to the Federal Government:

(By fiscal years, in millions of dollars)

	1984	1985	1986	1987	1988
Estimated authorization level:					
Function 370	265	896			
Function 450		398			
Function 900		5	7	-6	-18
Total	265	1,299	7	-6	-18
Estimated outlays:					
Function 370	265	278	256	369	212
Function 450		275	100	-26	-20
Function 900		5	7	-6	-18
Total	265	558	363	337	164

For many government activities, the costs and outlays are identical. For loan programs, however, costs may differ substantially from outlays, and include administrative expenses, interest subsidies and defaults. The costs of this bill are summarized separately below:

(By fiscal years, in millions of dollars)

	1984	1985	1986	1987	1988
Estimated costs	20	258	230	369	211

This bill increases loan guarantees by \$330 million in fiscal year 1984 and authorizes loan guarantees totalling \$3.8 billion in fiscal year 1985. Current law authorizes \$3.3 billion in guarantee loan authority in year 1984. The change in guarantee program levels in 1984 represents an increase (relative to current law) in contingent liabilities of the federal government.

In addition, the bill would change the mix of guarantee program levels in 1983, but does not increase the total amount authorized to be appropriated in 1983.

Basis of estimate: This bill would make a number of changes to the 1984 authorization levels specified in current law for various programs within the SBA. The net result for business programs is an increase of \$265 million in the amount authorized to be appropriated for fiscal year 1984. It would also authorize \$896 million to be appropriated in 1985. The following table summarizes these changes:

AUTHORIZATION LEVELS

[By fiscal years, in millions of dollars]

	1984		1985
	Public Law 97-35	Senate reported	Senate reported
Function 370:			
Business loans	531	779	601
Surety bond guarantee	30	30	30
Lease guarantee	4	4	4
Salary and expenses	239	256	261
Pollution control	(¹)	(¹)	(¹)
Total	804	1,069	896

¹ No appropriations are authorized for this activity.

PROGRAM LEVELS

[By fiscal years, in millions of dollars]

	1984		1985
	Public Law 97-35	Senate reported	Senate reported
Business loans:			
Direct/equity	230	90	90
Guaranteed	3,300	3,630	3,830
Surety	1,400	1,400	1,400
Pollution	250	250	250

For purposes of this estimate, the outlays and costs for SBA programs in 1984 are estimated based on the net difference in authorization levels specified in the bill relative to current law. (For 1985, estimates are based on the program levels specified in the bill.) For direct and immediate participation loans and administrative expenses, the difference in authorization level in 1984 is the level specified in the bill relative to current law. For guarantee loan activities, the difference in authorization level in 1984 reflects the estimated difference in the portion of authorized guarantee loans historically set aside to repurchase loans which have defaulted.

Outlays represent loan disbursements and administrative expenses less net repayments.

Outlays for SBA direct and immediate participation loans are calculated by assuming that these loans are disbursed over a two-year period based on SBA historical disbursement rates. The repayment schedule is derived from amortization tables. SBA purchase of guarantee loans that have defaulted is assumed to occur in the first through sixth years after disbursement by the bank, at rates consistent with historical experience.

Outlays for salaries and expenses and the surety bond program are assumed to follow historical patterns. The estimated outlays in the pollution control program in 1985 are —\$10 million in 1985, reflecting net program fee collections.

The bill would also require SBA to issue loan guarantees unless qualified applicants do not exist, and would prohibit the Administration from issuing guarantees for development companies when tax exempt financing is also used and would make several changes in the administration of this program. Certain employers of the handicapped would be allowed to participate in up to \$100 million annually in small business set-aside contracts.

The estimate for the SBA disaster loan program assumes full funding in fiscal year 1985 for all activities presently authorized for assistance from this program. Budget authority and outlay estimates reflect this authority for fiscal year 1985 only.

SBA makes an annual interest payment to the Treasury based on its outstanding disbursements for direct loans. The payment to the Treasury reflects disbursements from the net authorization level changes for fiscal year 1984 and the authorization level specified for 1985. Because the interest payment represents an outlay to SBA but a receipt to the Treasury, it has no net budget impact and no net cost to the federal government. The figures in the cost estimate table for function 900 represent the change in Treasury receipts resulting from the changes in SBA program levels.

6. Estimated cost to State and local governments: This bill would authorize \$500 million in SBA loan guarantees of debentures in each fiscal year 1984 and 1985 for state and local development companies. The company sells the SBA-guaranteed debentures to the Federal Financing Bank, and uses the proceeds primarily for plant conversion, construction or expansion. Current law provides \$350 million in loan guarantee authority in 1984 for these activities.

7. Estimate comparison: None

8. Previous CBO estimate: None.

9. Estimate prepared by: Mary Maginniss, Linwood Lloyd.

10. Estimate approved by: Robert A. Sunshine (for James L. Blum, Assistant Director for Budget Analysis).

C. REGULATORY IMPACT STATEMENT

In compliance with Rule XXVI (11)(b) of the Standing Rules of the Senate, it is the Committee's belief that this bill will have no regulatory or privacy impact on the small businesses affected by the legislation.

V. CHANGES IN EXISTING LAW

In compliance with rule XXVI(12) of the Standing Rules of the Senate, changes in existing law made by the statutory provisions of the bill are as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

SEC. 15* * *

(c)(1) [During fiscal years 1981, 1982, and 1983, public] *Public* and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed \$100,000,000 for each [such] year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

(2) The Administration shall, not later than January 1, [1962] *of each year*, prepare and transmit to the Senate [Select] Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.

SEC. 20 (a) (1) For fiscal years 1981, 1982, 1983 and 1984 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1985 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.

(2) *Notwithstanding any other provision of law, the Administration shall enter into commitment to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications for such guarantees, and (B) limitations contained in appropriation Acts. Nothing in this paragraph authorizes*

the Administration to reduce or limit its authority to enter commitments for such guarantees to qualified applicants.

(n) The following program levels are authorized for fiscal year 1983:

(2) For the programs authorized by section 7(a) of this Act and **[section] sections 501 and 503** of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,140,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$60,000,000 in loans as provided in paragraph (11), \$17,000,000 in loans as provided in paragraph (12), and **[\$350,000,000] \$400,000,000** in loans as provided in paragraph (13) and guarantees of debentures as provided in **[section] sections 501 and 503**.

(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make **[\$35,000,000] \$45,000,000** in direct purchases of debentures and preferred securities and to make **[\$160,000,000] \$250,000,000** in guarantees of debentures.

(q) The following program levels are authorized for fiscal year 1984:

(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make **[\$195,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make \$15,000,000] \$20,000,000** in loans as provided in paragraph (10) **[\$45,000,000 in loans as provided in paragraph (11), and \$10,000,000 in loans as provided in paragraph (12)]** and *\$250,000,000 in loans to be made only to disabled veterans and veterans of the Vietnam era, as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72.*

(2) For the programs authorized by 7(a) of this Act and **[Section] Sections 501 and 503** of the Small Business Investment Act of 1958, the Administration is authorized to make **[\$3,140,000,000] \$3,380,000,000** in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$60,000,000 in loans as provided in paragraph (11), \$17,000,000 in loans as provided in paragraph (12), and **[\$350,000,000] \$500,000,000** in loans as provided in paragraph (13) and guarantees of debentures as provided in **[Section] Sections 501 and 503**.

(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make **[\$35,000,000] \$45,000,000** in direct purchases of debentures and preferred securities and to make **[\$160,000,000] \$250,000,000** in guarantees of debentures.

(r) There are authorized to be appropriated to the Administration for fiscal year 1984, **[\$804,000,000]** \$1,062,500,000 of such sum, **[\$531,000,000]** \$779,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (q), paragraphs (1) through (3); \$30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and **[\$239,000,000]** \$256,500,000 shall be available for salaries and expenses of the Administration. **[of which amount—]**

[(1)] \$12,526,000 shall be available for procurement and technical assistance; of which amount not less than \$2,318,000 shall be available for technical assistance, and of this amount not less than \$903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology lab books to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

[(2)] \$32,138,000 shall be available for management assistance of which amount not less than \$1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

[(3)] \$8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,420,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,400,000 shall be used to develop an external small business data bank and small business index; not less than \$1,350,000 shall be used for research; and not less than \$1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

[(4)] \$30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

[(5)] \$10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

[(6)] There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

(t) The following programs levels are authorized for fiscal year 1985:

(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$20,000,000 in direct and immediate participation loans as provided in paragraph (10) and \$25,000,000 in loans to be made only to disabled veterans and veterans of the Vietnam era, as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72.

(2) For the programs authorized by section 7(a) of this Act and sections 501 and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,580,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$60,000,000 in loans as provided in paragraph (11), \$15,000,000 in loans as provided in paragraph (12), and \$50,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in sections 501 and 503.

(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$45,000,000 in direct purchases of debentures and preferred securities and to make \$250,000,000 in guarantees of debentures.

(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,400,000,000.

(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees, or other obligations or commitments.

(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$250,000,000.

(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

(u) There are authorized to be appropriated to the Administration for fiscal year 1985, \$896,000,000. Of such sum \$601,000,000 shall be available for carrying out the programs referred to in subsection (t), paragraphs (1) through (3); \$30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$261,000,000 shall be available for salaries and expenses of the Administration.

* * * * *

SMALL BUSINESS INVESTMENT ACT of 1958

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to "or to purchase or guarantee debentures issued by" State development companies to assist in carrying out the purposes of this Act. Any [funds advanced] *loans made* under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources. *Any purchases or guarantees of debentures made under this section shall be subject to the provisions of subsection (c) of this section, but shall be made without regard to the use and investment by the development company of funds secured by it from other sources.*

* * * * *

(c)(1) *The Administration may purchase, or guarantee the timely payment of all principal and interest scheduled on, any debenture issued by any qualified State development company, except that the Administration may not purchase or guarantee any debenture collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954.*

(2) *Such purchases or guarantees may be made by the Administration on such terms and conditions as the Administration may by regulation determine to be appropriate. The Administration may impose an additional charge for administrative expenses with respect to each debenture purchased or guaranteed under this section.*

3) *The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this section.*

(4) *Debentures purchased or guaranteed under this section shall be treated on an equal basis in repayment and liquidation with those funds borrowed by the qualified State development company, regardless of source, unless the Administration in its exercise of reasonable investment prudence and in considering the financial soundness of such company determines that debentures purchased or guaranteed may be subordinate to other debts and obligations of such company.*

(5) *The interest rate on any such debenture shall be the rate of interest determined by the Secretary of the Treasury pursuant to section 303(b) of this Act.*

(6) *The proceeds of any such financing shall be used solely to assist an identifiable small business concern and for a sound business purpose as determined by the Administration.*

ADDITIONAL VIEWS OF MR. DIXON

While I voted for the Tsongas/Huddleston amendment in Committee that would retain direct loans in the Small Business Administration at \$150 million, to be made available primarily to the disadvantaged, I did so with reservations.

If the Tsongas amendment has been adopted, the Committee would have continued its commitment to insure that the most disadvantaged in the small business community retain access to a vital source of funds through the economic opportunity, energy, handicapped and veterans direct loan program.

This Committee has held only one oversight hearing on the direct loan program since the 96th Congress, and at that time reviewed a General Accounting Office study that discussed problems with the past implementation of the program. At that hearing in September, 1981, I pointed out that there may be a need for a direct loan program, but that the program should be directed in such a way that the taxpayers of our country are assured that their money is being spent wisely, and that there is a reasonable assurance of repayment. However, no recent significant Senate review has been undertaken to determine whether the program should be retained in its present form, or revised.

Our Committee should hold hearings at the earliest practical date to determine what changes, if any, should be made to the overall direct loan program. This review should include an analysis of the interest rate, terms and conditions, and appropriate funding levels which could improve the effectiveness of the direct loan program.

It is with the hope that this thorough look at the direct loan program will be taken that I cast my vote for the Tsongas/Huddleston amendment in committee.

ALAN J. DIXON.